

Department of Veterans Affairs

§ 1.475

VA drug abuse, alcoholism or alcohol abuse, HIV infection, or sickle cell anemia treatment program. A facility may require patients to use or carry cards or other identification objects on the premises of a facility. Patients may not be required to wear clothing or colored identification bracelets or display objects openly to all facility staff or others which would identify them as being treated for drug or alcohol abuse, HIV infection, or sickle cell anemia.

(b) Treatment locations should not be identified by signs that would identify individuals entering or exiting these locations as patients enrolled in a drug or alcohol abuse, HIV infection, or sickle cell anemia program or activity.

(Authority: 38 U.S.C. 7334)

§ 1.468 Relationship to Federal statutes protecting research subjects against compulsory disclosure of their identity.

(a) *Research privilege description.* There may be concurrent coverage of patient identifying information by the provisions of §§ 1.460 through 1.499 of this part and by administrative action taken under Sec. 303(a) of the Public Health Service Act (42 U.S.C. 241(d) and the implementing regulations at 42 CFR Part 2a); or Sec. 502(c) of the Controlled Substances Act (21 U.S.C. 872(c) and the implementing regulations at 21 CFR 1316.21). These “research privilege” statutes confer on the Secretary of Health and Human Services and on the Attorney General, respectively, the power to authorize researchers conducting certain types of research to withhold from all persons not connected with the research the names and other identifying information concerning individuals who are the subjects of the research.

(b) *Effect of concurrent coverage.* Sections 1.460 through 1.499 of this part restrict the disclosure and use of information about patients, while administrative action taken under the research privilege statutes and implementing regulations protects a person engaged in applicable research from being compelled to disclose any identifying characteristics of the individuals who are the subjects of that research. The issuance under §§ 1.490 through 1.499 of

this part of a court order authorizing a disclosure of information about a patient does not affect an exercise of authority under these research privilege statutes. However, the research privilege granted under 21 CFR 291.505(g) to treatment programs using methadone for maintenance treatment does not protect from compulsory disclosure any information which is permitted to be disclosed under those regulations. Thus, if a court order entered in accordance with §§ 1.490 through 1.499 of this part authorizes a VA facility to disclose certain information about its patients, the facility may not invoke the research privilege under 21 CFR 291.505(g) as a defense to a subpoena for that information.

(Authority: 38 U.S.C. 7334)

§ 1.469 Patient access and restrictions on use.

(a) *Patient access not prohibited.* Sections 1.460 through 1.499 of this part do not prohibit a facility from giving a patient access to his or her own records, including the opportunity to inspect and copy any records that VA maintains about the patient, subject to the provisions of the Privacy Act (5 U.S.C. 552a(d)(1)) and 38 CFR 1.577. If the patient is accompanied, giving access to the patient and the accompanying person will require a written consent by the patient which is provided in accordance with § 1.475 of this part.

(b) *Restrictions on use of information.* Information obtained by patient access to patient record is subject to the restriction on use of this information to initiate or substantiate any criminal charges against the patient or to conduct any criminal investigation of the patient as provided for under § 1.461(d)(1) of this part.

(Authority: 38 U.S.C. 7334)

§§ 1.470–1.474 [Reserved]

DISCLOSURES WITH PATIENT’S CONSENT

§ 1.475 Form of written consent.

(a) *Required elements.* A written consent to a disclosure under §§ 1.460 through 1.499 of this part must include:

(1) The name of the facility permitted to make the disclosure (such a